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Attorneys for Defendants City of Phoenix;  
Richard L. Furman, II and Crystal F. Furman,  
husband and wife

**UNITED STATES DISTRICT COURT**

**DISTRICT OF ARIZONA**

Eduardo Herrera-Moreno,

Plaintiff,

v.

Richard Furman and Jane Doe Furman,  
husband and wife; City of Phoenix; John Does  
1-5; Jane Does 1-5; ABC Partnerships 1-5; and  
XYZ Corporations 1-5,

Defendants.

NO.

**NOTICE OF FILING REMOVAL**

Defendants City of Phoenix, Richard L. Furman, II and Crystal F. Furman,  
by and through undersigned counsel and pursuant to 28 U.S.C. § 1441(b) have been served  
via Acceptance of Service with Plaintiff's Complaint, and hereby notices the removal of  
the above-captioned case, Maricopa County Superior Court Cause No. CV2012-011467  
from the Arizona Superior Court, County of Maricopa, to this Court and in support thereof  
asserts:

1. Plaintiff has asserted claims of unlawful use of force in violation of  
the 4<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution and violation of the 1<sup>st</sup>  
Amendment to the United States Constitution.

2. On or about August 8, 2012, Plaintiff filed a Complaint against the City of Phoenix, Richard L. Furman, II and Jane Doe Furman his spouse, in the Superior Court of the State of Arizona in and for the County of Maricopa, under the caption, *Eduardo Herrera-Moreno v. Richard Furman and Jane Doe Furman and City of Phoenix et al.* CV2012-011467. A copy of the Complaint is attached hereto as Exhibit "A." Defendants City of Phoenix and Richard L. Furman, II and Crystal F. Furman (spouse) received formal notice of the Complaint on or about August 23, 2012 and August 21, 2012, respectively when they were served with the Summons and Complaint.

3. This Notice of Removal is being filed within thirty days after initial service of the Complaint and is therefore timely filed under 28 U.S.C. § 1446(b).

4. Copies of all remaining pleadings currently on file with the Maricopa County Superior Court are attached as part of Exhibit "B."

A Notice of Filing Notice of Removal, a true and correct copy of which is attached as Exhibit "C" (without exhibits attached) has been filed in the Arizona Superior Court, County of Maricopa, on behalf of Defendants City of Phoenix, Richard L. Furman, II and Crystal F. Furman.

Defendants City of Phoenix, Richard L. Furman, II and Crystal F. Furman respectfully request that the above action now pending in Arizona Superior Court, Maricopa County, be removed to this Court.

DATED this 9<sup>th</sup> day of September, 2012.

JONES, SKELTON & HOCHULI, P.L.C.

By s/Georgia A. Staton

Georgia A. Staton  
Elizabeth A. Gilbert  
2901 North Central Avenue, Suite 800  
Phoenix, Arizona 85012  
Attorneys for Defendants City of Phoenix;  
Richard L. Furman, II and Crystal F.  
Furman, husband and wife

1 ORIGINAL of the foregoing e-filed  
2 this 9<sup>th</sup> day of September, 2012.

3 COPY of the foregoing mailed  
4 this 9<sup>th</sup> day of September, 2012, to:

5 Hon. Michael Herrod  
6 Maricopa County Superior Court  
7 East Court Building - 411  
8 101 West Jefferson Street  
9 Phoenix, AZ 85003  
10 602-372-0359

11 Augustine B. Jimenez, III, Esq.  
12 MONTOYA JIMENEZ, P.A.  
13 3200 North Central Avenue  
14 Suite 2550  
15 Phoenix, AZ 85012-2490  
16 602-263-7875  
17 E-mail: Attorney@ABJLaw.com

18 Jose A. Saldivar, Esq.  
19 JOSE A. SALDIVAR, P.C.  
20 3200 North Central Avenue  
21 Suite 2550  
22 Phoenix, AZ 85012  
23 602-999-7876  
24 E-mail: Jose @SaldivarLaw.com  
25 Attorneys for Plaintiff

26 s/Gwen Coon  
27  
28

# **EXHIBIT "A"**

**COPY**

AUG - 8 2012



MICHAEL K. JEANES, CLERK  
R. SANDERS  
DEPUTY CLERK

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Jose@SaldivarLaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA  
FOR THE COUNTY OF MARICOPA

EDUARDO HERRERA-MORENO,

Plaintiff,

vs.

RICHARD FURMAN and JANE DOE  
FURMAN, husband and wife; CITY OF  
PHOENIX; JOHN DOES 1-5; JANE  
DOES 1-5; ABC PARTNERSHIPS 1-5;  
and XYZ CORPORATIONS 1-5;

Defendants.

No. CV2012 011467

**COMPLAINT**

(Tort – Non-Motor Vehicle,  
Negligence)

Plaintiff, for his Complaint against Defendants, alleges as follows:

1. At all times mentioned herein, Plaintiff was a resident of Maricopa County, Arizona. All actions, transactions, omissions and occurrences complained of herein, occurred within said County and State.

2. Upon information and belief, at all times mentioned herein, defendants Richard Furman and Jane Doe Furman were residents of Maricopa County, Arizona, and caused events to occur in the County of Maricopa, in the

1 State of Arizona, out of which these claims arise. All acts of Defendant Richard  
2 Furman were in furtherance of his community and marital estate.

3 3. Defendant City of Phoenix is a body politic in the State of Arizona;  
4 Defendant Officer Richard Furman (Officer Furman) is a peace officer with the  
5 Phoenix Police Department. The Defendants caused events to occur in Maricopa  
6 County, and within the jurisdiction of this Court.

7 4. Defendants' acts were committed under color of state or local law.  
8 Defendant Officer Furman is being sued in both his individual and official  
9 capacities. His actions complained of herein were done within the course and scope  
10 of his employment with the City of Phoenix that is therefore vicariously liable for  
11 Officer Furman's conduct. Jane Doe Furman, as a member of her marital  
12 community, is also liable for the conduct of her husband, Defendant Officer  
13 Furman.

14 5. The fictitiously named defendants are entities or persons, partnerships,  
15 corporations, unincorporated associations, bodies politic and public agencies  
16 subject to suit in a common name whose names are unknown to Plaintiff and who  
17 are, therefore, designated by fictitious names pursuant to Rule 10(f), Rules of Civil  
18 Procedure. Each of these Defendants caused Plaintiff's injuries and is liable to  
19 Plaintiff or is responsible as a matter of law for acts of others who caused  
20 Plaintiff's injuries.

21 6. All Defendants are hereby sued in their individual and official  
22 capacities. Defendants at all times herein mentioned were the agents, employees,  
23 partners and co-conspirators of their co-defendants and in doing these things herein  
24 alleged were acting within the course and scope of such agency, employment,  
25 partnership and conspiracy with the permission and consent of their co-defendants.  
26 The actions of Defendants herein alleged were taken in furtherance of official  
27 policies, customs, procedures and authority.  
28

**GENERAL ALLEGATIONS**

7. On August 12, 2011, On August 12, 2011, at approximately 4:45 a.m., Plaintiff, was arrested for alleged criminal damage at 1647 W. Atlanta Avenue in Phoenix, Arizona. The alleged criminal damage was a broken window (valued at \$50.00) at his friend's house. Plaintiff suffers from a physical disability. More specifically, his right arm is deformed and substantially shorter than his left arm. This disability is readily apparent and visible to anyone making contact with him. Moreover, Officer Furman was familiar with Plaintiff and was fully aware of Plaintiff's disability. As the officer began to physically restrain him, Plaintiff informed him of his disability and pled for him not to handcuff him behind his back because of his arm. Plaintiff did not resist arrest, was unarmed, and did not present any threat to police officers. Notwithstanding, Officer Furman, forced Plaintiff's right arm back behind his back, causing his right arm to break. Although Plaintiff's arm hurt, he was not fully aware of the extent of his injury until he was released from the Maricopa County Jail and presented at the hospital.

8. The charges against Plaintiff were dismissed on September 27, 2011.

9. As a result of the injuries suffered by Plaintiff, he underwent surgery to repair his broken arm. In addition, Plaintiff is currently being evaluated for additional surgery due to the nerve damage caused by the injury as well as the ongoing pain and numbness to his right hand. As a result of Officer Furman's negligence, Plaintiff has endured great pain and suffering including post-surgery recovery which he may have to endure again.

**COUNT ONE**  
**(Assault/Intentional Tort)**

10. Plaintiff hereby incorporates all preceding paragraphs by reference.

11. That the conduct of Officer Furman constitutes assault and aggravated assault. That the assault was the proximate cause of the injuries and medical

1 expenses suffered and incurred by Plaintiff. That Officer Furman's actions were in  
2 a fashion or means likely to result in grievous bodily harm.

3 **COUNT TWO**  
4 **(Excessive/Improper Use of Force)**

5 12. Plaintiff hereby incorporates all preceding paragraphs by reference.

6 13. This count is brought pursuant to 42 U.S.C. §1983 and the First,  
7 Fourth and Fourteenth Amendments to the United States Constitution.

8 14. That Officer Furman's actions, as set forth above, were in violation of  
9 Plaintiff's constitutional rights in that the officer's conduct was an excessive and  
10 improper use of force.

11 **COUNT THREE**  
12 **(Negligence/Gross Negligence)**

13 15. Plaintiff hereby incorporates all preceding paragraphs by reference.

14 16. That Officer Furman owed Plaintiff a duty of reasonable care in  
15 effecting his arrest; that Defendant breached this duty of reasonable care by acting  
16 unreasonably, grossly negligent and with conscious disregard for the health, safety  
17 and rights of Plaintiff; that these breaches proximately caused serious injury to  
18 Plaintiff in violation of his statutory and constitutional rights.

19 WHEREFORE, Plaintiff prays for judgment against Defendants and each  
20 and every one of them as follows:

21 1. For an amount to be proven at trial which will reasonably and fairly  
22 compensate Plaintiff for personal injuries and for current and future medical  
23 expenses and loss of income;

24 2. For an amount to be proven at trial which will reasonably and fairly  
25 compensate Plaintiff for pain, suffering and humiliation;

26 3. For punitive damages;

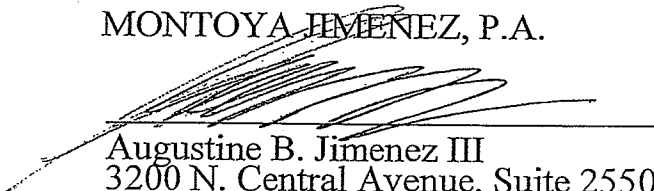
27 4. For Plaintiff's costs and attorneys' fees as allowed by law; and

28 5. For such other and further relief as the Court deems just and proper.



1 Dated this 7th day of August, 2012.

2 MONTROYA JIMENEZ, P.A.

3  
4   
5 Augustine B. Jimenez III  
6 3200 N. Central Avenue, Suite 2550  
7 Phoenix, Arizona 85012-2490

8 JOSE A. SALDIVAR, P.C.  
9 Jose A. Saldivar  
10 3200 N. Central Avenue, Suite 2550  
11 Phoenix, Arizona 85012

12 Attorneys for Plaintiff  
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# **EXHIBIT "B"**

Document Distribution: Original - Give to E  
 Copy - Place in Note. on Desk  
 Copy - Attach to Summons/Complaint

MATTER NO.:

12-1230204

# CITY OF PHOENIX LAW DEPARTMENT - CIVIL DIVISION

## Complaint Receipt Information

## LAWSUIT INFORMATION:

Plaintiff(s) Name:

EDUARDO HERRERA-MORENO

Defendant(s) Name:  
(first and last)

Richard L Furman II

Court: ☒ Superior Court ☐ Federal Court ☐ Justice

Case

Number:

CV2012-011467

Name of Plaintiff's  
Attorney:

Augustine Jimenez III, Jose Saldivar

Method of Service:

☒ Process Server ☐ Mail ☐ Interoffice Mail ☐ Other:

Describe:

Date Served:

8/21/12

Where Served:

400 W Southern Ave

Person Served:

Self

## EMPLOYEE INFORMATION:

Dept./Div. of  
Person Served:

PHX P.D. / SMP

Phone No.

602-540-8857

Office or Job Site  
Address:

400 W Southern Ave

Job Title:

Police Officer

Current Supervisor:

D. Montoya

Job Title of Current  
Supervisor:

Sergeant

Phone Number of  
Current Supervisor:

602-495-5004

Address of  
Supervisor:

400 W Southern Ave.

Supervisor on Date of  
Incident:

UNK

Job Assignment on  
Date of Incident:

42nd Squad.

Is There a Report of  
This Incident:

YES

If Yes, Date of Report:

8/12/2011

Current Marital Status:

☐ Single ☒ Married ☐ Divorced

Current Spouse's Name:

Crystal F Furman

Marital Status on Date of Incident:

☐ Single ☒ Married ☐ Divorced

Name of Spouse on Date of Incident:

Crystal F Furman

## IF NO LONGER EMPLOYED BY CITY

Current Employer:

Job Title:

Address:

Phone Number:

Date of Employment:

&gt;&gt;&gt; WRITE ANY ADDITIONAL INFORMATION ON REVERSE SIDE &lt;&lt;&lt;

FORM RECEIVED BY:

Sharon A. Beatty

DATE:

8/22/12

THE INFORMATION PROVIDED ON THIS FORM IS CONSIDERED ATTORNEY-CLIENT CONFIDENTIAL INFORMATION AND WILL NOT BE RELEASED EXCEPT PURSUANT TO A SPECIFIC COURT ORDER. IT IS EXEMPT FROM PUBLIC RECORDS OR PUBLIC INFORMATION DISCLOSURE.

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CITY OF PHOENIX

2012 AUG 22 AM 8:54

CITY ATTORNEY'S OFFICE

AUGUSTINE B. JIMENEZ III  
State Bar # 012208  
Montoya Jimenez, P.A.  
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Phoenix, Arizona 85012  
602-999-7876  
Jose@SaldivarLaw.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA  
FOR THE COUNTY OF MARICOPA

EDUARDO HERRERA-MORENO,

Plaintiff,

vs.

RICHARD FURMAN and JANE DOE  
FURMAN, husband and wife; CITY OF  
PHOENIX; JOHN DOES 1-5; JANE  
DOES 1-5; ABC PARTNERSHIPS 1-5;  
and XYZ CORPORATIONS 1-5;

Defendants.

No. CV 2012 011467

**SUMMONS**

**(Tort – Non-Motor Vehicle,  
Negligence)**

If you would like legal advice from a lawyer,  
contact the Lawyer Referral Service at

602-257-4424

or

[www.lawyerfinders.org](http://www.lawyerfinders.org)

Sponsored by the  
Arizona State Bar Association

**THE STATE OF ARIZONA TO:**

RICHARD FURMAN and JANE DOE FURMAN, husband and wife  
CITY OF PHOENIX

JOHN DOES 1-5; JANE DOES 1-5

ABC PARTNERSHIPS 1-5; and XYZ CORPORATIONS 1-5

**YOU ARE HEREBY SUMMONED** and required to appear and defend, within the time applicable, in this action in this Court. If served within Arizona, you shall appear and defend within 20 days after the service of the Summons and Complaint or Petition for Dissolution of Marriage upon you, exclusive of the day of service. If served out of the State of Arizona – whether by direct service, by registered or certified mail, or by publication – you shall appear and defend within 30 days after the service of the Summons and Complaint upon you is

complete, exclusive of the day of service. Where process service is upon the Arizona Director of Insurance as an insurer's attorney to receive service of legal process against it in this state, the insurer shall not be required to appear, answer or plead until expiration of 40 days after date of such service upon the Director. Service by registered or certified mail without the State of Arizona is complete 30 days after the date of filing the receipt and affidavit of service with the Court. Service by publication is complete 30 days after the date of first publication. Direct service is complete when made. Service upon the Arizona Motor Vehicle Superintendent is complete 30 days after filing the Affidavit of Compliance and return receipt or Officer's return. RCP 4; A.R.S. Sections 20-222, 28-502, 28-503.

**YOU ARE HEREBY NOTIFIED** that in case of your failure to appear and defend within the time applicable, judgment by default may be rendered against you for the relief demanded in the Complaint.

**YOU ARE CAUTIONED** that in order to appear and defend, you must file an Answer or proper response in writing with the Clerk of this Court, accompanied by the necessary filing fee, within the time required, and you are required to serve a copy of any Answer or response upon the Plaintiff's attorney. RCP 10(d); ARS Section 12-311; RCP 5.

**Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by parties at least 3 judicial days in advance of a scheduled court proceeding.**

The name and address of Petitioner's attorney is:

AUGUSTINE B. JIMENEZ III  
3200 N. Central, Suite 2550  
Phoenix, Arizona 85012

**SIGNED AND SEALED** this date: \_\_\_\_\_

CLERK OF THE SUPERIOR COURT

By: \_\_\_\_\_

Deputy Clerk

AUG - 8 2012



MICHAEL K. JEANES, CLERK  
P. SANDERS  
DEPUTY CLERK



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CITY CLERK DEPT.

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AUGUSTINE B. JIMENEZ III  
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Jose A. Saldivar, P.C.  
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602-999-7876  
Jose@SaldivarLaw.com

Attorneys for Plaintiff

## SUPERIOR COURT OF THE STATE OF ARIZONA

## FOR THE COUNTY OF MARICOPA

EDUARDO HERRERA-MORENO,

Plaintiff,

vs.

RICHARD FURMAN and JANE DOE  
FURMAN, husband and wife; CITY OF  
PHOENIX; JOHN DOES 1-5; JANE  
DOES 1-5; ABC PARTNERSHIPS 1-5;  
and XYZ CORPORATIONS 1-5;

Defendants.

No. CV2012 011467

**SUMMONS****(Tort – Non-Motor Vehicle,  
Negligence)**

If you would like legal advice from a lawyer,  
contact the Lawyer Referral Service at

602-257-4434

or

[www.lawyerfinders.org](http://www.lawyerfinders.org).

Sponsored by the  
Maricopa County Bar Association

**THE STATE OF ARIZONA TO:**

RICHARD FURMAN and JANE DOE FURMAN, husband and wife  
CITY OF PHOENIX

JOHN DOES 1-5; JANE DOES 1-5

ABC PARTNERSHIPS 1-5; and XYZ CORPORATIONS 1-5

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complete, exclusive of the day of service. Where process service is upon the Arizona Director of Insurance as an insurer's attorney to receive service of legal process against it in this state, the insurer shall not be required to appear, answer or plead until expiration of 40 days after date of such service upon the Director. Service by registered or certified mail without the State of Arizona is complete 30 days after the date of filing the receipt and affidavit of service with the Court. Service by publication is complete 30 days after the date of first publication. Direct service is complete when made. Service upon the Arizona Motor Vehicle Superintendent is complete 30 days after filing the Affidavit of Compliance and return receipt or Officer's return. **RCP 4; A.R.S. Sections 20-222, 28-502, 28-503.**

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The name and address of Petitioner's attorney is:

AUGUSTINE B. JIMENEZ III  
3200 N. Central, Suite 2550  
Phoenix, Arizona 85012

**SIGNED AND SEALED** this date: \_\_\_\_\_

CLERK OF THE SUPERIOR COURT

By: \_\_\_\_\_ AUG - 8 2012  
Deputy Clerk  MICHAEL K. JEANES, CLERK  
P. SANDERS  
DEPUTY CLERK





**COPY**

AUG - 8 2012



MICHAEL K. JEANES, CLERK  
P. SANDERS  
DEPUTY CLERK

AUGUSTINE B. JIMENEZ III  
State Bar # 012208  
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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA  
FOR THE COUNTY OF MARICOPA

EDUARDO HERRERA-MORENO,

Plaintiff,

vs.

RICHARD FURMAN and JANE DOE  
FURMAN, husband and wife; CITY OF  
PHOENIX; JOHN DOES 1-5; JANE  
DOES 1-5; ABC PARTNERSHIPS 1-5;  
and XYZ CORPORATIONS 1-5;

Defendants.

No. CV2012 011467

**COMPLAINT**

**(Tort – Non-Motor Vehicle,  
Negligence)**

Plaintiff, for his Complaint against Defendants, alleges as follows:

1. At all times mentioned herein, Plaintiff was a resident of Maricopa County, Arizona. All actions, transactions, omissions and occurrences complained of herein, occurred within said County and State.

2. Upon information and belief, at all times mentioned herein, defendants Richard Furman and Jane Doe Furman were residents of Maricopa County, Arizona, and caused events to occur in the County of Maricopa, in the

1 State of Arizona, out of which these claims arise. All acts of Defendant Richard  
2 Furman were in furtherance of his community and marital estate.

3 3. Defendant City of Phoenix is a body politic in the State of Arizona;  
4 Defendant Officer Richard Furman (Officer Furman) is a peace officer with the  
5 Phoenix Police Department. The Defendants caused events to occur in Maricopa  
6 County, and within the jurisdiction of this Court.

7 4. Defendants' acts were committed under color of state or local law.  
8 Defendant Officer Furman is being sued in both his individual and official  
9 capacities. His actions complained of herein were done within the course and scope  
10 of his employment with the City of Phoenix that is therefore vicariously liable for  
11 Officer Furman's conduct. Jane Doe Furman, as a member of her marital  
12 community, is also liable for the conduct of her husband, Defendant Officer  
13 Furman.

14 5. The fictitiously named defendants are entities or persons, partnerships,  
15 corporations, unincorporated associations, bodies politic and public agencies  
16 subject to suit in a common name whose names are unknown to Plaintiff and who  
17 are, therefore, designated by fictitious names pursuant to Rule 10(f), Rules of Civil  
18 Procedure. Each of these Defendants caused Plaintiff's injuries and is liable to  
19 Plaintiff or is responsible as a matter of law for acts of others who caused  
20 Plaintiff's injuries.

21 6. All Defendants are hereby sued in their individual and official  
22 capacities. Defendants at all times herein mentioned were the agents, employees,  
23 partners and co-conspirators of their co-defendants and in doing these things herein  
24 alleged were acting within the course and scope of such agency, employment,  
25 partnership and conspiracy with the permission and consent of their co-defendants.  
26 The actions of Defendants herein alleged were taken in furtherance of official  
27 policies, customs, procedures and authority.  
28

**GENERAL ALLEGATIONS**

7. On August 12, 2011, On August 12, 2011, at approximately 4:45 a.m., Plaintiff, was arrested for alleged criminal damage at 1647 W. Atlanta Avenue in Phoenix, Arizona. The alleged criminal damage was a broken window (valued at \$50.00) at his friend's house. Plaintiff suffers from a physical disability. More specifically, his right arm is deformed and substantially shorter than his left arm. This disability is readily apparent and visible to anyone making contact with him. Moreover, Officer Furman was familiar with Plaintiff and was fully aware of Plaintiff's disability. As the officer began to physically restrain him, Plaintiff informed him of his disability and pled for him not to handcuff him behind his back because of his arm. Plaintiff did not resist arrest, was unarmed, and did not present any threat to police officers. Notwithstanding, Officer Furman, forced Plaintiff's right arm back behind his back, causing his right arm to break. Although Plaintiff's arm hurt, he was not fully aware of the extent of his injury until he was released from the Maricopa County Jail and presented at the hospital.

8. The charges against Plaintiff were dismissed on September 27, 2011.

9. As a result of the injuries suffered by Plaintiff, he underwent surgery to repair his broken arm. In addition, Plaintiff is currently being evaluated for additional surgery due to the nerve damage caused by the injury as well as the ongoing pain and numbness to his right hand. As a result of Officer Furman's negligence, Plaintiff has endured great pain and suffering including post-surgery recovery which he may have to endure again.

**COUNT ONE****(Assault/Intentional Tort)**

10. Plaintiff hereby incorporates all preceding paragraphs by reference.

11. That the conduct of Officer Furman constitutes assault and aggravated assault. That the assault was the proximate cause of the injuries and medical

1 expenses suffered and incurred by Plaintiff. That Officer Furman's actions were in  
2 a fashion or means likely to result in grievous bodily harm.

3 **COUNT TWO**  
4 **(Excessive/Improper Use of Force)**

5 12. Plaintiff hereby incorporates all preceding paragraphs by reference.

6 13. This count is brought pursuant to 42 U.S.C. §1983 and the First,  
7 Fourth and Fourteenth Amendments to the United States Constitution.

8 14. That Officer Furman's actions, as set forth above, were in violation of  
9 Plaintiff's constitutional rights in that the officer's conduct was an excessive and  
10 improper use of force.

11 **COUNT THREE**  
12 **(Negligence/Gross Negligence)**

13 15. Plaintiff hereby incorporates all preceding paragraphs by reference.

14 16. That Officer Furman owed Plaintiff a duty of reasonable care in  
15 effecting his arrest; that Defendant breached this duty of reasonable care by acting  
16 unreasonably, grossly negligent and with conscious disregard for the health, safety  
17 and rights of Plaintiff; that these breaches proximately caused serious injury to  
18 Plaintiff in violation of his statutory and constitutional rights.

19 WHEREFORE, Plaintiff prays for judgment against Defendants and each  
20 and every one of them as follows:

21 1. For an amount to be proven at trial which will reasonably and fairly  
22 compensate Plaintiff for personal injuries and for current and future medical  
23 expenses and loss of income;

24 2. For an amount to be proven at trial which will reasonably and fairly  
25 compensate Plaintiff for pain, suffering and humiliation;

26 3. For punitive damages;

27 4. For Plaintiff's costs and attorneys' fees as allowed by law; and

28 5. For such other and further relief as the Court deems just and proper.

1 Dated this 7th day of August, 2012.

2 MONTROYA JIMENEZ, P.A.

3   
4 Augustine B. Jimenez III  
5 3200 N. Central Avenue, Suite 2550  
6 Phoenix, Arizona 85012-2490

7 JOSE A. SALDIVAR, P.C.  
8 Jose A. Saldivar  
9 3200 N. Central Avenue, Suite 2550  
10 Phoenix, Arizona 85012

11 Attorneys for Plaintiff  
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AUG - 8 2012



MICHAEL K. JEANES, CLERK  
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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA  
FOR THE COUNTY OF MARICOPA

EDUARDO HERRERA-MORENO,

Plaintiff,

vs.

RICHARD FURMAN and JANE DOE  
FURMAN, husband and wife; CITY OF  
PHOENIX; JOHN DOES 1-5; JANE  
DOES 1-5; ABC PARTNERSHIPS 1-5;  
and XYZ CORPORATIONS 1-5;

Defendants.

No. CV2012 011467

CERTIFICATE OF  
COMPULSORY  
ARBITRATION

The undersigned certifies that he knows the dollar limits and any other limitations set forth by the local rules of practice for the Maricopa County Superior Court, and further certifies that this case **is not** subject to compulsory arbitration, as provided by Rules 72 through 76 of the Arizona Rules of Civil Procedure.

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1 Dated this 7th day of August, 2012.

2 MONTOKA JIMENEZ, P.A.

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4   
5 Augustine B. Jimenez III  
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7 Phoenix, Arizona 85012-2490

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12 Attorneys for Plaintiff



**COPY**

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Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF ARIZONA  
FOR THE COUNTY OF MARICOPA

EDUARDO HERRERA-MORENO,

Plaintiff,

vs.

RICHARD FURMAN and JANE DOE  
FURMAN, husband and wife; CITY OF  
PHOENIX; JOHN DOES 1-5; JANE  
DOES 1-5; ABC PARTNERSHIPS 1-5;  
and XYZ CORPORATIONS 1-5;

Defendants.

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CERTIFICATE OF  
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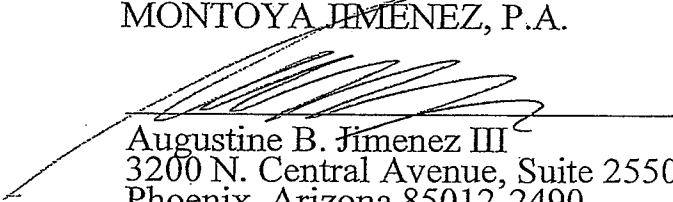
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///

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1 Dated this 7th day of August, 2012..

2 MONTROYA JIMENEZ, P.A.

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5 Augustine B. Jimenez III  
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7 Phoenix, Arizona 85012-2490

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12 Attorneys for Plaintiff  
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## **EXHIBIT "C"**

Georgia A. Staton, Bar #004863  
Elizabeth A. Gilbert, Bar #016498  
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Attorneys for Defendants City of Phoenix;  
Richard L. Furman, II and Crystal F. Furman,  
husband and wife

**SUPERIOR COURT OF THE STATE OF ARIZONA**

**COUNTY OF MARICOPA**

Eduardo Herrera-Moreno,

Plaintiff,

v.

Richard Furman and Jane Doe Furman,  
husband and wife; City of Phoenix; John Does  
1-5; Jane Does 1-5; ABC Partnerships 1-5; and  
XYZ Corporations 1-5,

Defendants.

NO. CV2012-011467

**NOTICE OF REMOVAL TO  
UNITED STATES DISTRICT  
COURT**

(Assigned to the Honorable Michael  
Herrod, ECB-411)

Defendants City of Phoenix, Richard L. Furman II and Crystal F. Furman,  
by and through undersigned counsel, pursuant to 28 U.S.C. § 1441, et seq. notify this  
Court that it filed a Notice of Removal of this action to the United States District Court for  
the District of Arizona. A copy of the Notice of Removal (exclusive of exhibits) is  
attached as Exhibit "A."

1 DATED this 9<sup>th</sup> day of September, 2012.

2 JONES, SKELTON & HOCHULI, P.L.C.

3  
4 By 

Georgia A. Staton

Elizabeth A. Gilbert

2901 North Central Avenue, Suite 800

Phoenix, Arizona 85012

Attorneys for Defendants City of Phoenix;

Richard L. Furman, II and Crystal F.

Furman, husband and wife

5  
6  
7  
8  
9 ORIGINAL of the foregoing e-filed  
this 9<sup>th</sup> day of September, 2012.

10  
11 COPY of the foregoing mailed  
this 9<sup>th</sup> day of September, 2012, to:

12 Hon. Michael Herrod  
13 Maricopa County Superior Court  
14 East Court Building - 411  
101 West Jefferson Street  
15 Phoenix, AZ 85003  
602-372-0359

16 Augustine B. Jimenez, III, Esq.  
17 MONTOYA JIMENEZ, P.A.  
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24 

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by aw, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM)

| <b>I. (a) PLAINTIFFS:</b><br>I EDUARDO HERRERA-MORENO,<br><br><b>(b)</b> COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Maricopa<br>(EXCEPT IN U.S. PLAINTIFF CASES)                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>DEFENDANTS:</b> Richard Furman and Jane Doe Furman, husband and wife; City of Phoenix; John Does 1-5; Jane Does 1-5; ABC Partnerships 1-5 and XYZ Corporations 1-5<br><br>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT MARICOPA<br>(IN U.S. PLAINTIFF CASES ONLY)<br>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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| <b>(c)</b> ATTORNEYS (FIRM NAME, ADDRESS, TELEPHONE NUMBER)<br><br>Augustine B. Jimenez, III, Esq.<br>MONTOYA JIMENEZ, P.A.<br>3200 North Central Avenue, Suite 2550<br>Phoenix, AZ 85012-2490<br>602-263-7875<br>E-mail: Attorney@ABJlaw.com<br><br>Jose A. Saldivar, Esq.<br>JOSE A SALDIVAR, P.C.<br>3200 North Central Avenue, Suite 2550<br>Phoenix, AZ 85012<br>602-999-7876<br>E-mail: Jose@SaldivarLaw.com<br><br>Attorneys for Plaintiff                                                                                                                                                       | <b>ATTORNEYS (IF KNOWN)</b><br>Georgia A. Staton, #004863<br>Elizabeth A. Gilbert, #016498<br>Jones, Skelton & Hochuli, P.L.C.<br>2901 North Central Avenue, Suite 800<br>Phoenix, AZ 85012<br>Attorneys for Defendant City of Phoenix<br>Telephone No.: (602) 263-1752<br>FAX: 602-200-7854<br>E-mail: gstaton@jshfirm.com                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY)<br><br>9 1 U.S. Government Plaintiff<br>9 2 U.S. Government Defendant<br>X 3 Federal Question (U.S. Government Not a Party)<br>4 Diversity (Indicate Citizenship of Parties In Item III)                                                                                                                                                                                                                                                                                                                                                  | <b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)<br><br><table style="width: 100%;"> <tr> <th style="text-align: left;">PTF</th> <th></th> <th style="text-align: left;">DEF</th> </tr> <tr> <td>Citizen of this State</td> <td style="text-align: center;">9 1</td> <td>Incorporated or Principal Place Of Business in this State</td> </tr> <tr> <td>Citizen of another State</td> <td style="text-align: center;">9 2</td> <td>Incorporated and Principal Place Of Business in Another State</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;">9 3</td> <td>Foreign Nation</td> </tr> </table>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           | PTF                                                           |                                    | DEF            | Citizen of this State                   | 9 1            | Incorporated or Principal Place Of Business in this State | Citizen of another State       | 9 2                                              | Incorporated and Principal Place Of Business in Another State | Citizen or Subject of a Foreign Country | 9 3          | Foreign Nation    |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| PTF                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | DEF                                                           |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Citizen of this State                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 9 1                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Incorporated or Principal Place Of Business in this State     |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Citizen of another State                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 9 2                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Incorporated and Principal Place Of Business in Another State |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Citizen or Subject of a Foreign Country                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | 9 3                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Foreign Nation                                                |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>IV. NATURE OF SUIT</b> (PLACE AN X IN ONE BOX ONLY)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>CONTRACT</b><br>9 110 Insurance<br>9 120 Marine<br>9 130 Miller Act<br>9 140 Negotiable Instrument<br>9 150 Recovery of Overpayment & Enforcement of Judgment<br>9 151 Medicare Act<br>9 152 Recovery of Defaulted Student Loans (Excl Veterans)<br>9 153 Recovery of Overpayment of Veteran's Benefits<br>9 160 Stockholders' Suits<br>9 190 Other Contract<br>9 195 Contract Product Liability<br><br><b>REAL PROPERTY</b><br>9 210 Land Condemnation<br>9 220 Foreclosure<br>9 230 Rent Lease & Ejectment<br>9 240 Torts to Land<br>9 245 Tort Product Liability<br>9 290 All Other Real Property | <b>TORTS</b><br><table style="width: 100%;"> <tr> <th style="text-align: left;">PERSONAL INJURY<br/>PERSONAL INJURY</th> <th style="text-align: left;">PERSONAL INJURY<br/>PERSONAL INJURY</th> </tr> <tr> <td>9 310 Airplane</td> <td>9 362 Personal Injury - Med Malpractice</td> </tr> <tr> <td>9 315 Airplane</td> <td>9 365 Personal Injury - Product Liability</td> </tr> <tr> <td>9 320 Assault, Libel &amp; Slander</td> <td>9 368 Asbestos Personal Injury Product Liability</td> </tr> <tr> <td>9 330 Federal Employers' Liability</td> <td><b>PERSONAL PROPERTY</b></td> </tr> <tr> <td>9 340 Marine</td> <td>9 370 Other Fraud</td> </tr> <tr> <td>9 345 Marine Product Liability</td> <td>9 371 Truth in Lending</td> </tr> <tr> <td>9 350 Motor Vehicle</td> <td>9 380 Other Personal Property Damage</td> </tr> <tr> <td>9 355 Motor Vehicle Product Liability</td> <td>9 385 Property Damage Product Liability</td> </tr> <tr> <td>9 360 Other Personal Injury</td> <td></td> </tr> </table> <table style="width: 100%;"> <tr> <th style="text-align: left;">CIVIL RIGHTS</th> <th style="text-align: left;">PRISONER PETITIONS</th> </tr> <tr> <td>441 Voting</td> <td>9 510 Motions to Vacate Sentence</td> </tr> <tr> <td>442 Employment</td> <td>Habeas Corpus:</td> </tr> <tr> <td>443 Housing/ Accommodations</td> <td>9 530 General</td> </tr> <tr> <td>444 Welfare</td> <td>9 535 Death Penalty</td> </tr> <tr> <td>X 440 Other Civil Rights</td> <td>9 540 Mandamus &amp; Other</td> </tr> <tr> <td></td> <td>9 550 Other</td> </tr> </table> | PERSONAL INJURY<br>PERSONAL INJURY                            | PERSONAL INJURY<br>PERSONAL INJURY | 9 310 Airplane | 9 362 Personal Injury - Med Malpractice | 9 315 Airplane | 9 365 Personal Injury - Product Liability                 | 9 320 Assault, Libel & Slander | 9 368 Asbestos Personal Injury Product Liability | 9 330 Federal Employers' Liability                            | <b>PERSONAL PROPERTY</b>                | 9 340 Marine | 9 370 Other Fraud | 9 345 Marine Product Liability | 9 371 Truth in Lending | 9 350 Motor Vehicle | 9 380 Other Personal Property Damage | 9 355 Motor Vehicle Product Liability | 9 385 Property Damage Product Liability | 9 360 Other Personal Injury |  | CIVIL RIGHTS | PRISONER PETITIONS | 441 Voting | 9 510 Motions to Vacate Sentence | 442 Employment | Habeas Corpus: | 443 Housing/ Accommodations | 9 530 General | 444 Welfare | 9 535 Death Penalty | X 440 Other Civil Rights | 9 540 Mandamus & Other |  | 9 550 Other | <b>FORFEITURE/PENALTY</b><br>9 610 Agriculture<br>9 620 Other Food & Drug<br>9 625 Drug Related Seizure of Property 21 USC 881<br>9 630 Liquor Laws<br>9 640 R.R. & Truck<br>9 650 Airline Regs<br>9 660 Occupational Safety/Health<br>9 690 Other<br><br><b>LABOR</b><br>9 710 Fair Labor Standards Act<br>9 720 Labor/Mgmt. Relations<br>9 730 Labor/Mgmt. Reporting & Disclosure Act<br>9 740 Railway Labor Act<br>9 790 Other Labor Litigation<br>9 791 Empl. Ret. Inc. Security Act | <b>BANKRUPTCY</b><br>9 422 Appeal 28 USC 158<br>9 423 Withdrawal 28 USC 157<br><br><b>PROPERTY RIGHTS</b><br>9 820 Copyrights<br>9 830 Patent<br>9 840 Trademarks<br><br><b>SOCIAL SECURITY</b><br>9 861 HIA (1395ff)<br>9 862 Black Lung (923)<br>9 863 DIWC/DIWW (405(g))<br>9 864 SSID Title XVI<br>9 865 RSI (405(g))<br><br><b>FEDERAL TAX SUITS</b><br>9 870 Taxes (U.S. Plaintiff or Defendant<br>9 871 IRS - Third Party 28 USC 7609 | <b>OTHER STATUTES</b><br>9 400 State Reapportionment<br>9 410 Antitrust<br>9 430 Banks and Banking<br>9 450 Commerce/ICC Rates/etc.<br>9 460 Deportation<br>9 470 Racketeer Influenced \$ Corrupt Organizations<br>9 810 Selective Service<br>9 850 Securities/Commodities/ Exchange<br>9 875 Customer Challenge 12 USC 3410<br>9 891 Agricultural Acts<br>9 892 Economic Stabilization Act<br>9 893 Environmental Matters<br>9 894 Energy Allocation Act<br>9 895 Freedom of Information Act<br>9 900 Appeal of Fee Determination Under Equal Access to Justice<br>9 950 Constitutionality of State Statutes<br>9 890 Other Statutory Actions |
| PERSONAL INJURY<br>PERSONAL INJURY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | PERSONAL INJURY<br>PERSONAL INJURY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 310 Airplane                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 9 362 Personal Injury - Med Malpractice                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 315 Airplane                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 9 365 Personal Injury - Product Liability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 320 Assault, Libel & Slander                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 9 368 Asbestos Personal Injury Product Liability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 330 Federal Employers' Liability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <b>PERSONAL PROPERTY</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 340 Marine                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | 9 370 Other Fraud                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 345 Marine Product Liability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | 9 371 Truth in Lending                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 350 Motor Vehicle                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | 9 380 Other Personal Property Damage                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 355 Motor Vehicle Product Liability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | 9 385 Property Damage Product Liability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 9 360 Other Personal Injury                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| CIVIL RIGHTS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | PRISONER PETITIONS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 441 Voting                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | 9 510 Motions to Vacate Sentence                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 442 Employment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Habeas Corpus:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 443 Housing/ Accommodations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 9 530 General                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 444 Welfare                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | 9 535 Death Penalty                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| X 440 Other Civil Rights                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 9 540 Mandamus & Other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | 9 550 Other                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                               |                                    |                |                                         |                |                                                           |                                |                                                  |                                                               |                                         |              |                   |                                |                        |                     |                                      |                                       |                                         |                             |  |              |                    |            |                                  |                |                |                             |               |             |                     |                          |                        |  |             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |



**V. ORIGIN**

(PLACE AN X IN ONE BOX ONLY)

|                 |                  |              |                |                 |     |                   |                      |
|-----------------|------------------|--------------|----------------|-----------------|-----|-------------------|----------------------|
| APPEAL TO       | TRANSFERRED FROM |              | DISTRICT JUDGE |                 |     |                   |                      |
| 9 1 Original    | X 2              | Removed from | 9 3            | Remanded from   | 9 4 | Reinstated or 9 5 | another district 9 6 |
| from Magistrate |                  | State Court  |                | Appellate Court |     | Reopened          | (Specify) 9 7        |
| Proceeding      |                  |              |                |                 |     |                   | Litigation           |
| Judgment        |                  |              |                |                 |     |                   |                      |

**VI. CAUSE OF ACTION**

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

**Unlawful arrest and seizure under the 4<sup>th</sup> Amendment to the U.S. Constitution and denial of Equal Protection.****VII. REQUESTED IN**

CHECK IF THIS IS A

**CLASS ACTION****DEMAND \$****No****Demand***CHECK YES ONLY IF DEMANDED IN COMPLAINT:***COMPLAINT**

9 UNDER F.R.C.P. 23

**JURY DEMAND:****YES****NO****VIII. RELATED CASE(S)** (SEE INSTRUCTIONS):**IF ANY**

NONE

DATE SEPTEMBER 9, 2012. SIGNATURE OF ATTORNEY OF RECORD

S/GEORGIA A. STATON

Georgia A. Staton

## SUPPLEMENTAL CIVIL COVER SHEET FOR CASES REMOVED FROM ANOTHER JURISDICTION

This form must be attached to the Civil Cover Sheet at the time the case is filed in the United States District Clerk's Office.

Additional sheets may be used as necessary.

**1. Style of the Case:**

Please include all Plaintiff(s), Defendant(s), Intervenor(s), Counterclaimant(s), Crossclaimant(s) and Third Party Claimant(s) still remaining in the case and indicate their party type. Also, please list the attorney(s) of record for each party named and include their bar number, firm name, correct mailing address, and phone number (including area code).

| <u>Party</u>                                                    | <u>Party Type</u> | <u>Attorney(s)</u>                            |
|-----------------------------------------------------------------|-------------------|-----------------------------------------------|
| Eduardo Herrera-Moreno                                          | Plaintiff         | Augustine B. Jimenez, III<br>Jose A. Saldivar |
| City of Phoenix, Richard L. Furman, II<br>and Crystal F. Furman | Defendants        | Georgia A. Staton<br>Elizabeth A. Gilbert     |

**2. Jury Demand:**

Was a Jury Demand made in another jurisdiction? \_\_\_\_\_ Yes      X   No

If "Yes," by which party and on what date?

**3. Answer:**

Was an Answer made in another jurisdiction? Yes    No   X  

If "Yes," by which party and on what date?

**4. Served Parties:**

The following parties have been served at the time this case was removed:

| <u>Party</u>                                                  | <u>Date Served</u> | <u>Method of Service</u> |
|---------------------------------------------------------------|--------------------|--------------------------|
| Richard L. Furman, II and Crystal F. Furman, husband and wife | August 21, 2012    | Process Server           |
| City of Phoenix                                               | August 23, 2012    | Process Server           |

**5. Unserved Parties:**

The following parties have not been served at the time this case was removed:

**Party**

**Reason Not Served**

**6. Nonsuited, Dismissed or Terminated Parties:**

Please indicate changes from the style of the papers from another jurisdiction and the reason for the change:

**Party**

**Reason for Change**

**7. Claims of the Parties:**

The filing party submits the following summary of the remaining claims of each party in this litigation:

**Party**

**Claim(s)**

**Plaintiff**

**Use of excessive force in violation of the 1<sup>st</sup>, 4<sup>th</sup> and 14<sup>th</sup> Amendments to the United States Constitution.**

Pursuant to 28 USC § 1446(a) a copy of all process, pleadings, and orders served in another jurisdiction (State court) shall be filed with this removal.